

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 2, 2009

Charles R. Fulbruge III
Clerk

No. 07-60968
Summary Calendar

SALIM HABIB

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A78 881 588

Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Salim Habib, a native and citizen of Pakistan, petitions for review of the Board of Immigration Appeals's (BIA) denial of his motion to reopen his proceedings to apply for an adjustment of status. The BIA determined that Habib's motion to reopen was untimely. *See* 8 C.F.R. § 1003.2(c)(2).

This court reviews the denial of a motion to reopen "under a highly deferential abuse of discretion standard." *Manzano-Garcia v. Gonzales*, 413 F.3d 462, 469 (5th Cir. 2005). "Such discretion is not to be disturbed 'so long as it is

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

not capricious, racially invidious, utterly without foundation in the evidence, or otherwise so aberrational that it is arbitrary rather than the result of any perceptible rational approach.” *Id.* (quoting *Pritchett v. INS*, 993 F.2d 80, 83 (5th Cir. 1993)). Habib has not shown that he can meet this high standard.

The petition for review is DENIED, and the motion to dismiss for lack of jurisdiction is also DENIED.